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4 Chapter 7 Trustee

5
6 **UNITED STATES BANKRUPTCY COURT**
7 **CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION**

8 In re

9 GIRARDI KEESE,

10 Debtor.

Case No. 2:20-bk-21022-BR

Chapter 7

11 **CHAPTER 7 TRUSTEE'S APPLICATION**
12 **TO EMPLOY LARRY W. GABRIEL, THE**
13 **LAW OFFICES OF JENKINS,**
14 **MULLIGAN AND GABRIEL, LLP IN**
15 **PLACE AND INSTEAD OF RONALD**
16 **RICHARDS, THE LAW OFFICES OF**
17 **RONALD RICHARDS & ASSOCIATES,**
18 **A.P.C., AS SPECIAL LITIGATION**
19 **COUNSEL; DECLARATION AND**
20 **STATEMENT OF DISINTERESTEDNESS**
21 **OF LARRY W. GABRIEL IN SUPPORT**
22 **THEREOF**

[11 U.S.C. §§ 327(c) and (e), 328(a); Fed.
R. Bankr. P. 2014; Loc. Bankr. R. 2014-
1(b)]

[No Hearing Required]

23 **TO THE HONORABLE BARRY RUSSELL, UNITES STATES BANKRUPTCY**
24 **JUDGE AND TO ALL PARTIES IN INTEREST:**

25 Elissa D. Miller, Chapter 7 Trustee (the "Trustee"), for the estate of the Debtor
26 Girardi Keese (the "Debtor") hereby submits her *"Application to Employ Larry W. Gabriel,*
27 *the Law Offices of Jenkins, Mulligan and Gabriel, LLP in Place and Instead of Ronald*
28 *Richards, the Law Offices of Ronald Richards & Associates, A.P.C., as Special Litigation*
Counsel, Declaration and Statement of Disinterestedness of Larry W. Gabriel in Support
Thereof" (the "Application"), pursuant to which the Trustee seeks an order of this Court

1 authorizing the employment of Larry W. Gabriel, Jenkins, Mulligan and Gabriel, LLP
2 ("Gabriel") to act as her special litigation counsel in the above-captioned bankruptcy case
3 in place and instead of Ronald Richards, Law Offices of Ronald Richards & Associates,
4 A.P.C. ("Richards") and represents as follows:

5 1. Prepetition, the Debtor was a plaintiff's law firm based in Los Angeles,
6 California. On December 18, 2020, petitioning creditors Jill O'Callahan, as successor in
7 interest to James O'Callahan, Robert M. Keese, John Abassian, Erika Saldana, Virginia
8 Antonio, and Kimberly Archie (collectively, the "Petitioning Creditors") filed an involuntary
9 chapter 7 bankruptcy petition against the Debtor.¹ Prior to the involuntary petition, the
10 Debtor practiced in the areas of personal injury, defective products, sexual abuse, toxic
11 torts, business law, employment law, and aviation law. The Debtor was well known in the
12 national mass torts community representing clients in mass tort cases around the country
13 and was often placed in the position of lead counsel in addressing mass tort claims.

14 2. On December 24, 2020, the Petitioning Creditors filed a *Motion for*
15 *Appointment of Interim Trustee Pursuant to 11 U.S.C. § 303(g)* [Docket No. 12]. The
16 Court entered an order granting the motion on January 5, 2021 [Docket No. 45]. On
17 January 6, 2021, the Trustee was appointed as the interim trustee [Docket No. 50].

18 3. On January 13, 2021, the Court entered an Order Directing: (1) The Clerk
19 of Court to Immediately Enter an Order for Relief under Chapter 7; (2) The United States
20 Trustee to Immediately Appoint a Chapter 7 Trustee; (3) The Debtor to File All Schedules
21 and Related Documentation for Chapter 7 Case within Fourteen Days of the Entry of this
22 Order; and (4) Vacating February 16, 2021 Status Conference [Docket No. 68]. On
23

24 ¹ The Petitioning Creditors also filed an involuntary chapter 7 bankruptcy petition
25 against Thomas V. Girardi, which is currently pending as Bankruptcy Case No. 2:20-bk-
26 21020-BR. Jason Rund, the Trustee for Thomas Girardi, retained Abir Cohen Treyzon
27 Salo, LLP to recover transfers of Girardi's personal assets from Erika Jayne. [Dkt. No.
28 169]

1 January 13, 2021, the Clerk of Court entered an order for relief against the Debtor
2 [Docket No. 69], and the Trustee was appointed and accepted her appointment in the
3 Debtor's case [Docket No. 71].

4 4. Continuing investigation may reveal that assets of the Debtor were
5 transferred to Erika Girardi (aka Erika Jayne) ("Erika"), Thomas Girardi's Spouse, either
6 directly or to one or more people or entities on her behalf, or to other transferees of
7 assets from Erika Girardi or her related entities (the "Erika Transfers"). The Trustee
8 believes that the Erika Transfers will be recoverable under applicable state and federal
9 law.

10 5. Therefore, it is necessary for the Trustee to employ counsel to assist with
11 the investigation and undertake such proceedings and/or actions as may be appropriate
12 in connection with investigating and recovering estate property and filing such
13 proceedings and/or actions as are appropriate in connection with the Erika Transfers.

14 6. On April 26, 2021, the Trustee filed an application to employ Richards as
15 her special litigation counsel which application was granted by order entered on June 10,
16 2021, pursuant to 11 U.S.C. § 327(c) and/or § 327(e) for the limited and special purpose
17 of representing the Trustee in connection with investigating and recovering the Erika
18 Transfers [Dkt. No. 318]. The Application was granted [Dkt. No. 392] over an objection
19 filed by Erika. Thereafter, Erika filed a motion to reconsider the Order [Dkt. No. 437]
20 which Motion was denied by the Court. [Dkt. Nos. 571 and 572]. Erika appealed that
21 order [Dkt. No. 632] which appeal is currently pending in the United States District Court
22 for the Central District of California.

23 7. After the Court approved the Trustee's application to employ Richards,
24 Richards filed an adversary complaint against Erika on July 14, 2021: *Miller v. Girardi*,
25 Adversary Case no: 2:21-ap-01155. [ECF Doc. 1], Richards filed an amended complaint
26 on August 26, 2021 [ECF Doc. 12]. The defendants in the action recently filed their
27 answer to the Amended Complaint on November 1, 2021. [ECF Doc. 20] Formal
28 discovery has yet to be conducted in the adversary as the same is just in its infancy.

1 8. The Trustee believes that it is in the best interests of the estate for her to
2 retain Gabriel in place of Richards. The Trustee has previously retained Gabriel as
3 special litigation counsel and has a close working relationship with Gabriel that has
4 produced significant results for the benefit of the estates. By way of example, in the
5 chapter 7 proceeding, *In re Mary Perkins*, Gabriel investigated the debtor's mortgage
6 broker ponzi scheme and obtained a \$20 million judgment for the estate. More recently,
7 the Trustee retained Gabriel in the chapter 7 proceeding *In re Deborah Lois Adri* as
8 special litigation counsel prosecuting a lawsuit against the debtor's former attorney for
9 breach of fiduciary duty and professional negligence. The effort resulted in a settlement
10 of over \$625,000.00. Mr. Gabriel has been practicing for over 40 years and has
11 extensive experience and success in representing Chapter 7 and Chapter 11 trustees as
12 special litigation counsel. A copy of Mr. Gabriel's CV is attached to his declaration
13 submitted in support of this application as Exhibit 1.

14 9. The Trustee proposes that Gabriel will handle all matters relating to the
15 Erika Transfers, including, but not limited to, investigation, written discovery, depositions,
16 court appearances, preparation of pleadings and other filings, trial and overall
17 prosecution of any appropriate actions on behalf of the Trustee in accordance with the
18 terms set forth herein.

19 10. The Trustee proposes to employ Gabriel, effective immediately as of the
20 date services were first rendered at the expense of the bankruptcy estate, pursuant to 11
21 U.S.C. § 328(a). (The Trustee intends to file a Substitution of counsel concurrently
22 herewith). More specifically, the Trustee proposes to retain Gabriel on a contingency
23 basis that was previously established and approved by this court for Richards' retention:
24 35% of the net recovery prior to commencement of litigation, 40% of the net recovery
25 after the complaint is filed through 60 days prior to a jury or bench trial, and 45% of the
26 net recovery thereafter. "Net recovery" means the amount remaining after the total
27 amount received (whether by settlement, arbitration award, or court judgment) has been
28 reduced by the sum of all "costs". The amount of the fee is not set by law but is

1 negotiable between Gabriel and the Trustee. Gabriel recognizes that Richards may seek
2 payment for the work he performed prior to his termination and that any such claim, if
3 approved, will be paid from the contingency fee, awarded, if any. In other words, the
4 estate will not be increasing its administrative liability by this change of counsel.

5 11. Gabriel also shall be entitled to reimbursement of its out-of-pocket costs
6 incurred during the course of the instant engagement as approved by the Court, with
7 such costs to be advanced by Gabriel (or by the estate following appropriate budget
8 order) and paid from the estate in accordance with the terms of this application which
9 shall govern the relationship between the Trustee and Gabriel.

10 12. Other than the contingency fee and costs to be paid to Gabriel as set forth
11 herein and in the Engagement Agreement, Gabriel shall have no claims against the
12 estate.

13 13. Gabriel has not been paid a retainer. Gabriel has agreed to and will be
14 compensated pursuant to 11 U.S.C. § 328(a). Gabriel understands that any and all fees
15 and expenses sought or requested by, or paid to, Gabriel is subject to Bankruptcy Court
16 approval and in the amounts approved by the Bankruptcy Court upon proper application
17 in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules of this
18 Court and any other applicable law and guidelines.

19 14. Gabriel has no agreement to share any compensation for services rendered
20 in connection with this case with any other individual or entity, except as among and
21 between Gabriel's partners, employees, independent contractors or contract attorneys
22 all of whom shall act under the direction and supervision of Gabriel.

23 15. As of the date of this Application, to the best of Applicant's knowledge and
24 after consideration of the disclosures in the attached Statement of Disinterestedness,
25 except as specifically disclosed, Gabriel and its professionals are disinterested persons
26 as that term is defined in 11 U.S.C. § 101(14).

27 WHEREFORE, Applicant requests that the Court enter an order authorizing her to
28 employ Gabriel as her special litigation counsel in place and instead of Richards, as an

1 administrative expense in this bankruptcy case, and for such other and further relief as may
2 be determined just and proper.

3 DATED: November 11, 2021

Respectfully submitted,

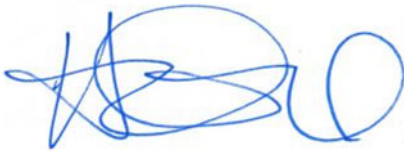
/s/ Elissa D. Miller

Elissa D. Miller

Chapter 7 Trustee

6 **APPROVED AS TO FORM AND CONTENT:**

7 Larry W. Gabriel
Jenkins, Mulligan & Gabriel, LLP

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9
10 

11 by: _____
Larry W. Gabriel

DECLARATION OF LARRY W. GABRIEL AND
STATEMENT OF DISINTERESTEDNESS

[The following is provided in conformity with the Form No. 2014-1 of the United States Bankruptcy Court, Central District of California.]

I, Larry W. Gabriel, declare:

1. I am an attorney at law licensed to practice before all the Courts of the State of California and before the United States District Court for the Central District of California and this Court. I am a partner in the law firm of Jenkins Mulligan & Gabriel, LLP (the "Firm" or "Gabriel"). I am authorized to make this Declaration on behalf of the Firm.

2. This declaration is made in support of the Application of Elissa D. Miller, Chapter 7 Trustee To Employ Larry W. Gabriel, Jenkins, Mulligan & Gabriel, LLP and Larry Gabriel as Special Litigation Counsel ("Applicant" or "Trustee") in these Estate Proceedings effective as of December 12, 2021 in the adversary matter now pending before this court, captioned *Miller v. Erika Jayne, et al*, Adversary Case no: 2:21-ap-01155.

3. The Firm, its partners and associates are well-qualified to represent the Trustee as special litigation counsel as the Firm, and its principal, Larry Gabriel, (collectively "Gabriel") is experienced in prosecuting claims and actions that the Trustee has presented in the Erika Girardi adversary.

4. As set forth above, Gabriel has agreed to represent the Trustee on the following terms:

(a) The Trustee proposes to employ Gabriel, effective immediately as of the date services were first rendered at the expense of the bankruptcy estate, pursuant to 11 U.S.C. § 328(a). More specifically, the Trustee proposes to retain Gabriel on a contingency basis that was previously established and approved by this court for Richards retention: 35% of the net recovery prior to commencement of litigation, 40% of the net recovery after the complaint is filed through 60 days prior to a jury or bench trial,

1 and 45% of the net recovery thereafter. "Net recovery" means the amount remaining
2 after the total amount received (whether by settlement, arbitration award, or court
3 judgment) has been reduced by the sum of all "costs," incurred in the prosecution of the
4 action(s) for which this application is made. The amount of the fee is not set by law but is
5 negotiable between Gabriel and the Trustee. Gabriel recognizes that Richards may seek
6 payment for the work he performed prior to his termination and that any such claim, if
7 approved, will be paid from the contingency fee, awarded, if any. In other words, the
8 estate will not be increasing its administrative liability by this change of counsel.

9 (b) Gabriel also shall be entitled to reimbursement of its out-of-pocket
10 costs incurred during the course of the instant engagement as approved by the Court,
11 with such costs to be advanced by Gabriel (or by the estate following appropriate budget
12 order) and paid from the estate in accordance with the terms of this Application.

13 5. I have been involved in innumerable bankruptcy cases since starting my
14 practice of law in California in 1976. I served as Special Litigation Counsel to Bradley D.
15 Sharp in the *In re C.M. Meiers, Company, Inc.* bankruptcy, 1:12-bk-10229-MT, in a
16 lawsuit against the debtors' former officers and directors, *Sharp v. Rothman, et. et al.*
17 1:12-ap-01118-MT. The adversary action was settled with the D&Os for \$500,000 and
18 an assignment of the defendants claim against their E&O carrier for denying coverage. I
19 prosecuted the assigned claim, *Sharp v. Evanston Insurance Company*, 1:14-ap-01042,
20 obtaining a \$ 3.5 million judgment plus interest against the carrier, which judgment was
21 affirmed on appeal. As a result of this recovery the Trustee chapter 11 liquidating plan
22 was approved, which plan paid all creditors 100% of their claim, including all interest
23 accrued and will result in equity receiving a distribution from the estate. I also served as
24 general counsel to the Trustee and prepared both the disclosure statement and plan
25 both of which were approved without objection.

26 6. I also recently represented the Trustee, Elissa D. Miller, as special litigation
27 counsel in the chapter 7 case, *In re Deborah Adri*, 1:18-bk-10417 VK. As special
28 litigation counsel, I prosecuted a professional negligence, breach of fiduciary duty case

1 against the debtor's bankruptcy attorney. *Miller v. Yaspan*, 1:19-ap-01128-VK. The case
2 settled with the estate receiving in excess of \$650,000.00.

3 7. In addition, and among other cases, I was counsel to the creditors
4 committee and then special litigation counsel for the Trustee in the bankruptcy estate of
5 *In re Estate Financial Inc.*, ("EFI") Case No. 08-11457-RR (a chapter 11 proceeding of a
6 real estate mortgage broker, involving over 1600 investors, who invested over \$350
7 million in Tenant-In-Common Mortgages. As special litigation counsel, I prosecuted an
8 action against the Debtor's corporate counsel, Bryan Cave, which resulted in a settlement
9 of \$25 million.

10 8. I was also counsel to the special committee of creditors in the chapter 11
11 proceeding, *In re First Alliance Mortgage Company*, Case No. No. SA 00-1174 DOC
12 (EEEx), SA 01-139 DOC, SA 01-306 DOC. In both cases I was involved with the
13 preparation of a liquidating plan for each of the two estates. I was also special litigation
14 counsel to the Trustee in each of the aforementioned cases and was involved in
15 significant litigation and novel issues that were addressed by the 9th Circuit Court of
16 Appeal.

17 9. I also represented the Examiner in the chapter 11 case, *In re CenterStaging*
18 *Musical Productions, Inc.* ("CMPI") Case No. 2:08-bk-13019-VZ, in litigation against
19 CMPI's former officers and directors. The case settled for an amount in excess of
20 \$300,000.

21 10. I was also special litigation counsel to the Elissa D. Miller as the Trustee in
22 the bankruptcy matter, *In re Mary Perkins*, Case No. 2:10-bk-14392-ER, prosecuting a
23 complex fraud and aiding and abetting claim which resulted in a \$20 million judgment in
24 favor of the Trustee. See, *Miller v Perkins*, 2:10-ap-02024-ER, [ECF Docket Entry No.
25 119]

26 11. Based upon the foregoing and my review of the record, I have sufficient
27 familiarity with the instant proceedings to complete the duties of special litigation counsel.
28

1 12. Gabriel is familiar with the Bankruptcy Code, the Bankruptcy Rules, the
2 Local Bankruptcy Rules and the “Guide to Application for Professional Compensation” as
3 promulgated by the office of the United States Trustee and will comply with them. Any
4 and all compensation awarded to Gabriel is subject to Court approval and shall be
5 approved by the Court after notice and a hearing as may be required by the Bankruptcy
6 Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the
7 Central District of California, and the practice and procedure of this Court.

8 13. Gabriel carefully reviewed its files and determined that no conflict exists in
9 connection with this matter, as the Firm neither holds nor represents a claim against the
10 Debtor or the Estate.

11 14. Gabriel regularly checks its files to determine if it holds or represents any
12 creditor or party in interest with an interest adverse to the Debtor or the Estate. Gabriel
13 does not represent or hold any interest adverse to the Debtor or the Estate with respect
14 to the matters on which it will be employed. Gabriel does not represent and has not
15 represented any creditor or other party in interest in this Chapter 7 case, except as herein
16 disclosed. Therefore, Gabriel is a disinterested party in the within Chapter 7 case as that
17 term is defined by the Bankruptcy Code.

18 15. Gabriel is not a creditor, an equity security holder or an insider of the
19 Debtor.

20 16. Gabriel is not and was not an investment banker for any outstanding
21 security of the Debtor.

22 17. Gabriel is not and was not, within three years before the date of the filing of
23 the Petition herein, an investment banker for a security of the Debtor or any of its related
24 or affiliated entities, or an attorney for such an investment banker in connection with the
25 offer, sale or issuance of any security of the Debtor.

26 18. Gabriel is not and was not, within two years before the date of filing of the
27 Petition herein, a director, officer or employee of the any entity related to the Debtor or of
28

1 any investment banker for any security of the Debtor or any of its related or affiliated
2 entities.

3 19. Gabriel neither holds nor represents any interest materially adverse to the
4 interest of the Estate or of any class of creditors or equity security holders, for reason of
5 any direct or indirect relationship to, connection with, or interest in, the Debtor, and
6 related or affiliated entities, the Chapter 7 Trustee, or an investment banker for any
7 security of the Debtor, or for any other reason.

8 20. Gabriel's business address is 585 Lorna Lane, Los Angeles, CA 90049

9 21. The members, associates and paralegals of Gabriel are not relatives or
10 employees of any judge of the United States Bankruptcy Court for the Central District of
11 California, the United States Trustee, or any person currently employed in the Office of
12 the United States Trustee.

13 22. I am familiar and will comply with the Bankruptcy Code and the Bankruptcy
14 Rules, the Local Bankruptcy Rules and the Guidelines of the Office of the United States
15 Trustee

16 23. After due investigation and inquiry, I have determined that as of the date of
17 execution of this declaration, Gabriel is composed of "disinterested persons" within the
18 meaning of Section 101(14) of the Bankruptcy Code, who have no adverse
19 representation to Estates and/or the Trustee that might give rise to a conflict of interest
20 and that Gabriel has no interest materially adverse to the interests of Debtor's estate, or
21 of any class of creditors or equity security holders, by reason of any direct or indirect
22 relationship to, connection with, or interest in, the Debtor or any of its related or affiliated
23 entities, and/or the Trustee, or for any other reason.

24 24. After due investigation and inquiry, I have determined that as of the date of
25 execution of this declaration, Gabriel is composed of "disinterested persons" within the
26 meaning of Section 101(14) of the Bankruptcy Code, who have no adverse
27 representation to Estates and/or the Trustee that might give rise to a conflict of interest
28 and that Gabriel has no interest materially adverse to the interests of Debtor's estate, or

1 of any class of creditors or equity security holders, by reason of any direct or indirect
2 relationship to, connection with, or interest in, the Debtor or any of its related or affiliated
3 entities, and/or the Trustee, or for any other reason.

4 I declare under penalty of perjury under the laws of the United States of America
5 that the foregoing is true and correct.

6 Executed November 11, 2021 at Los Angeles, CA.

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9 _____
Larry W. Gabriel

EXHIBIT 1

CURRICULUM VITAE

LARRY W. GABRIEL

PRESENT

POSITION: Partner (2005 – Present)
Jenkins Mulligan & Gabriel, LLP
585 Lorna Lane
Los Angeles, CA 90049

**PREVIOUS
POSITIONS:**

Of Counsel
Brutzkus Gubner Rozansky Seror Weber LLP
21650 Oxnard Street, Suite 500
Woodland Hills, California 91367
Of Counsel: (2008 – 2021)
Website: bg.law

Pachulski, Stang, Ziehl, & Jones, LLP
10100 Santa Monica Blvd., Suite 1100
Los Angeles, California 90067
Shareholder (1992-2005)

Buchalter, Nemer, Fields & Younger
601 S. Figueroa Street, Suite 2500
Los Angeles, California 90017
Shareholder (1991-1992)

Rosen, Wachtell & Gilbert
1888 Century Park East, Suite 2100
Los Angeles, California 90067
Shareholder (1982-1991)

PROFESSIONAL: Drafting Committee, NAIC Receivership Handbook; Member of: Los Angeles County and American (Business Law Section, Insurance Insolvency Task Force (1993-1999), Tort and Insurance Practice Section (1984-2000) American Bar Association and State Bar of California; Trial Lawyers Assn. of America; and, Los Angeles Business Trial Lawyers Assn.

Adjunct Professor – Business Law, College of the Desert (2005-2007);
Adjunct Professor of Law - Banking, Pepperdine University Law School (1987-1989);
Judge Pro-Tem, Beverly Hills Municipal Court (1982-1990);

City Council, City of Hidden Hills, California (1997-2002); Mayor Pro Tem (1998-2002); Planning Commissioner, City of Hidden Hills (1991-1993);

PUBLICATIONS/
PRESENTATIONS:

Article: "Another Arrow in the Chapter 11 Trustee's Quiver," Law360, May 2014

Source, "9th Circ. Revives \$100M Bryan Cave Legal Malpractice Suits," Law360, March, 2014

Source, "Proskauer, Chadbourne Could Face Billions In Damages," Law360, February, 2014

Source, "Detroit Judge's Ch. 9 Ruling Will Fire Up Pension Dispute," Law360, December, 2013

"The Impact of Recent Developments at Lloyd's - Insolvencies, Limited Liability, Changes Membership By-Laws, Credit Risk Associated with Lloyd's Names on 'Old Years' Policies and Equitas, Lloyd's American Trust Funds - From the Perspective of U.S. Policyholders" American Bar Association International Insurance Law and Practice, May 5, 1995, London, England

"Receivers' ERISA Fiduciary Responsibilities -- Fact or Fiction, "National Association of Insurance Commissioners ("NAIC"), The Society of Insurance Receivers Insolvency Workshop, February 6, 1995, Savannah, Georgia

"The Law Applicable to the Insolvency of the Life Insurance Company - An Overview," American Bar Association ("ABA"), 1994

"Receivers and Guaranty Funds in Life Insurance Insolvency Proceedings: The Need for Reform," American Bar Association ("ABA"), 1994

"Pension Phantasmagoria," Business Insurance, September 6, 1993

"Ramifications of a Check Kite-Liability Between Banks," Pacific Banker and Business, March 1983

"Check Kiting - The Implications of a Discovering Bank's Actions on Its Right of Recovery," Banking News, November 15, 1982, Independent Banker, January 1983

SIGNIFICANT
LITIGATION AND
REPRESENTATIONS:

Significant Bankruptcy / Insolvency Representations:

In re C.M. Meiers, 1:12-bk-10229-MT (2012-present)

Represent Trustee as special litigation counsel in prosecution of claims against officers and directors for errors and omissions in the administration of the debtors business. Claim resulted in \$4.3 million settlement. Additional representation against E & O Insurer for breach of contract and bad faith. Obtained judgment against Evanston Insurance Company for \$3.8 million with interest total recovery

in excess of \$5 million. USDC Case No. 2:17-cv-01400-MRW. Appeal: *Sharp v. Evanston Ins. Co.*, 817 Fed. Appx. 317 (9th Cir. 2020.) Drafted Disclosure Statement and Plan of Liquidation – Creditors paid 100% of claim plus interest.

In re Deborah Lois Adri, 1:18-BK-10417-VK.

Represented chapter 7 Trustee, Elissa D. Miller in action against Debtor's former attorney, Robert Yaspan. *Miller v. Yaspan*, Adv. Case no.: 1:19-ap-01128-VK.. Case settled for \$625,000.00.

In re Gabriel Technologies, Inc. (2015-2018)

Represented Trustee in claims against Debtors former professionals for legal malpractice. Result: Multi-Million dollar settlement in favor of the Trustee.

In re Estate Financial Inc. (2010 – 2019)

Represented Trustee as special litigation counsel in prosecution of claims against Debtors attorneys, Bryan Cave. Settlement: \$25 million. See also, *Sharp v. Bryan Cave LLP (In re Estate Fin. Mortg. Fund LLC)* 565 Fed. Appx. 628 (9th Cir. 2014)

In re Estate Financial Inc. (2008 – 2018)

Representation of General Unsecured Creditors Committee- Real Estate Investment Company/Fund: 3600 investors - \$535 million invested capital.

In re CenterStaging Musical Productions, Inc. (2009 – 2011)

Represented Court Appointed Examiner re suit against Directors and Officers. Recovery - \$ 3 million

In re Fitness Holdings:

Trial Counsel, *Official Committee of Unsecured Creditors of the Estate of Fitness Holdings International, Inc. v. Hancock Park Capital II, L.P., Pacific Western Bank, et. al.*, United States Court of Appeals for the Ninth Circuit, No. 11-56677, April 30, 2013) (2013 WL 1800000 (C.A.9 2013) (Established law re right of bankruptcy court to employ equitable powers to recharacterize debt to equity)

In re Quality Home Loans (2008 -2012)

Represented “Ad Hoc” Committee of Investor/ Members. Represent Investor/Members in Class Action v. QHL officers and directors. Settlement in excess of \$ 10 million.

In re Estate of Mary Perkins (2010 – 2014)

Represent chapter 7 Trustee, Elissa D. Miller as special litigation counsel - obtained \$20 million stipulated judgment against the Debtor.

In re First Alliance Mortgage (2000 - 2005)

Represented Official Joint Borrowers Committee in bankruptcy involving national subprime mortgage lender. Resulted in recovery of over \$70 million for the consumer borrowers of the debtor.

Represented Trustee in action against Lehman Commercial Paper for Equitable Subordination of \$80 million claim. *Henry v. Lehman Commercial Paper, Inc.* 471 F.3d 977 (9th Cir. 2006).

People of the State of California v. Norman David Stark, Riverside Superior Court Case No. INF 045690

Represented Court Appointed Criminal State Court Receiver in proceedings involving the management and operation of car dealerships in Coachella Valley.

In re County of Orange Bankruptcy

Represented the Orange County Employees Association in obtaining Injunction against County preventing layoffs in violation of collective bargaining agreement.

State Life and Health Guaranty Fund Litigation:

Texas Life, Accident, Health & Hospital Service Insurance Guaranty Association v. Gaylord Entertainment Company, et al. (1994-1996)

Minnesota Life and Health Insurance Guaranty Association v. Xerox Corporation, etc., et al. (1994-1996)

In the Matter of the Life and Health Guaranty Association Claim of BW/IP International, Inc. (1994-1996)

Life Insurance Insolvencies:

In Re Executive Life (1991-1998, 2005 -2006)

Represented Pension Plan Sponsors and Trustees (One Billion Dollars in contract claims) in th Executive Life Insurance Conservation proceedings.

State Street Bank and Trust v. Mutual of New York (1992)

United States District Court, Southern District of New York. Represented State Street Bank in a suit against Mutual of New York for breach of contract and ERISA violations. The matter, tried before a jury, settled after completion of the trial on terms favorable to State Street.

In the Matter of the Rehabilitation of Mutual Benefit Life Insurance Company (1992-1994)

Represented Pension Plan Sponsors and Trustees in the Mutual Benefit Life Insurance Company Conservation proceedings. Participated on the steering committee of "Pension GIC" contract holders.

American Bar Assoc. v. Equitable Life Assurance Society of American (1992)

Represented the American Bar Association's Pension Plan in objecting to the demutualization of Equitable Life.

Significant General Litigation Matters:

The Travelers Insurance Co. v. Nyhart (1989) Montana Fifth Judicial District Court
Defended Travelers Insurance Company in a \$50 million lender liability claim brought by defendants in response to a foreclosure action instituted by Travelers. The matter was tried before a jury. Settled on appeal.

Challenge-Cook Bros. v. LCB Holdings, Inc. (1988) United States District Court, Central District of California
Represented CCB in breach of contract claim against LCB. Claim arose out of the failure of LCB to complete the acquisition of CCB. Judgment for CCB in excess of \$5,000,000 plus award of attorney's fees.

F.D.I.C. v. John Van Dyke (1988)
Represented president of failed bank in directors/officers litigation against former bank president, United States District Court, Central Dist. of Calif.

F.D.I.C. v. Imperial Bank (1987) United States District Court, Central Dist. of Calif.

Defended Imperial Bank against \$10,000,000 claim by F.D.I.C. Complaint alleged Bank was negligent in handling wire transfers causing the closure of a South Dakota bank. Defense verdict.

Samwa Bank v. F.D.I.C. (1985) United States District Court, Central District of California

Represented Bank against FDIC in breach of contract action. Judgment for Bank - \$5,000,000.

Imperial Bank v. Intermodal (and related cases) (1983)

Prosecuted \$23 million bank fraud action arising out of a check kiting scheme. The Bank sustained no loss as a result of the recoveries made from the litigation.

Defended Bank in wrongful termination case filed by bank officer discharged as a result of his alleged participation in the scheme.

Defended Bank in wrongful death action in case brought by the estate of one of the participants in the fraud.

SIGNIFICANT
APPELLATE
DECISIONS:

Sharp et al., v. Bryan Cave, et al., No. 12-56009 (9th Cir. 2014), overturning District Court's dismissal of \$100 million malpractice suit against the Bryan Cave law firm, reinstating lawsuit – matter settled for \$25 million.

Ammari Electronics v. Pacific Bell Directory, A136801, CA1/1(March 14, 2014) –

Class Action case with \$27 million recovery after jury trial.

Zacadia Financial Limited v. Fiduciary Trust Internat. of Cal. (CA4/3 Jan. 8, 2014) (Appeal involving right to declare default regarding \$50 million promissory note)

In the Matter of Fitness Holdings International, Inc., Official Committee of Unsecured Creditors of the Estate of Fitness Holdings International, Inc. v. Hancock Park Capital II, L.P., Pacific Western Bank, et. al., United States Court of Appeals for the Ninth Circuit, No. 11-56677, April 30, 2013) (2013 WL 1800000 (C.A.9 (Cal.)) (Established law re right of bankruptcy court to employ equitable powers to recharacterize debt to equity)

Ammari Electronics v. Pacific Bell Directory CA 1, (Nov. 15, 2011, A126326)

Watson v. Garamendi, 262 Fed.Appx. 805, 2008 WL 56022 (C.A.9, 2008)

Henry v. Lehman Commercial Paper, Inc. 471 F.3d 977 (9th Cir. 2006) (Determined Lehman aided and abetted sub-prime lender fraud in 2001-2002 time period)

People v. Stark 131 Cal.App.4th (2005) (Confirmed power of criminal receiver to act on behalf of the seized assets of suspect re white collar fraud)

Texas Life, Accident, Health, et al. v. Gaylord, et al. 105 F.3d 210 (5th Cir. 1997)(Establishing rights to coverage by pension gig policyholder re state guaranty fund insurance coverage)

In Re Executive Life Insurance Company In Conservation of Assets, 32 Cal.App.4th 344, 38 Cal.Rptr.2d 453 (1995)

Sunburst Bank v. Executive Life Ins. Co. 24 Cal. App. 4th 1156 (1994)

Commercial National Bank In Shreveport, et al. v. Garamendi, 14 Cal.App.4th 393, 17 Cal.Rptr.2d 884 (1993)(Overturning Commissioner's Plan of Rehabilitation of ELIC)

Texas Commerce Bank-El Paso, N.A. v. Garamendi, 28 Cal.App.4th 1234, 34 Cal.Rptr.2d 155 (1994)

Texas Commerce Bank v. Garamendi, 11 Cal.App.4th 460, 491, 14 Cal.Rptr. 854, 874 (1992)(Policyholder's rights re insurance conservation proceeding)

Familian Corp. v. Imperial Bank, 213 Cal.App.3d 681, 262 Cal.Rptr. 101 (1989)(Determining parties rights and obligations re standby letter of credit)

The Northern Trust Company v. Community Bank, 873 F.2d 227 (9th Cir. 1989)

Federal Deposit Insurance Corporation v. Imperial Bank, 859 F.2d, p. 101 (9th Cir. 1988) (Affirming District Court trial decision that Imperial Bank did not aid and abet bank fraud concerning correspondent Banking relationship.

Seven Elves, Inc. v. Eskinazi, et al. 704 F.2d 241 (5th Cir. 1983)

Seven Elves, Inc. v. Eskinazi, et al., 635 F.2d 396 (5th Cir. 1981)(Establishing red line regarding issue of when conduct of an attorney is not binding on a client)

Other Reported Cases:

Austin v. Chisick (In re First Alliance Mortg. Co.), 298 B.R. 652 (2003);

First Alliance Mortg. Co. v. First Alliance Mortg. Co., 269 B.R. 428 (2001);

First Alliance Mortg. Co. v. First Alliance Mortg. Co. (In re First Alliance Mortgage Co.), 269 B.R. 424 (2001);

In re County of Orange, Orange County Employers Assn., et al. v. County of Orange, 179 B.R. 177 (Bankr. C.D. Cal).

EDUCATION:

DePaul University (J.D., 1974)

Southern Illinois University (B.A., 1970)

Admitted to California Bar, 1976

Admitted to Illinois Bar, 1974

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 333 South Grand Avenue, Suite 3400, Los Angeles, CA 90071.

A true and correct copy of the foregoing document entitled (*specify*): **CHAPTER 7 TRUSTEE'S APPLICATION TO EMPLOY LARRY W. GABRIEL, THE LAW OFFICES OF JENKINS, MULLIGAN AND GABRIEL, LLP IN PLACE AND INSTEAD OF RONALD RICHARDS, THE LAW OFFICES OF RONALD RICHARDS & ASSOCIATES, A.P.C., AS SPECIAL LITIGATION COUNSEL; DECLARATION AND STATEMENT OF DISINTERESTEDNESS OF LARRY GABRIEL IN SUPPORT THEREOF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) November 11, 2021, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

See Attached List

☒ Service information continued on attached page.

2. SERVED BY UNITED STATES MAIL:

On (*date*) November 11, 2021, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Debtor
Girardi Keese
1126 Wilshire Blvd
Los Angeles, CA 90017-1904

☐ Service information continued on attached page.

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

November 11, 2021

Date

Cheryl Caldwell

Printed Name

/s/Cheryl Caldwell

Signature

ADDITIONAL SERVICE INFORMATION (if needed):

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")

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